

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:05-CR-163

v.

HON. ROBERT HOLMES BELL

CHARLES STEVEN SIMMONS,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #1228). Based on a review of defendant's motion, the Sentence Modification Report, submissions by counsel on behalf of the defendant and the government, and the original criminal file, the Court has determined that the motion should be denied as follows:

Defendant was originally sentenced on January 9, 2006, to 121 months custody. On October 26, 2009, the Court granted the defendant's motion for reduction of sentence pursuant to 18 U.S.C. §3582(c)(2), Amendment 706, and sentenced defendant to 120 months, the mandatory minimum.

The Sentencing Guidelines provide that "where a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence." USSG §5G1.1(b). Since

Amendment 750 does not result in a lower guideline range due to the mandatory minimum sentence imposed, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10.

Date: May 14, 2012

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE